

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ELBERT D SMITH, II,  
PLAINTIFF,**

**v.**

**CITY OF DALLAS TEXAS,  
DEFENDANT.**

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**CIVIL No. 3:19-CV-2892-K-BK**

**PROPOSED SCHEDULING ORDER**

Pursuant to *Special Order 3*, this case was referred by the district judge to the undersigned magistrate judge for pretrial management, including the determination of non-dispositive motions and issuance of findings of fact and a recommended disposition to the district judge on dispositive motions.

In accordance with Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure and the Court's Civil Justice Expense and Delay Reduction Plan, this order is entered to promote early settlement of this action and to facilitate entry of the scheduling order required by Rule 16(b).

**I. APPLICATION OF RULES**

The Federal Rules of Civil Procedure in effect on the date of this order and the local civil rules of this Court shall apply to this case.

**II. MEETING REQUIREMENTS**

Lead counsel for each party, a designee attorney with appropriate authority, and any *pro se* parties must confer on a mutually agreeable date. The Rule 26(f) conference may be conducted via teleconference or other method that will permit a suitable dialogue to occur.

In accordance with Rules 16(b) and 26(f), counsel and any unrepresented party are directed to confer as soon as practicable to (1) consider the nature and basis of their claims and defenses and the possibilities of prompt settlement or resolution of this case; (2) make or arrange for the initial disclosures required by Rule 26(a)(1); (3) discuss what subjects and sources of discovery are both highly relevant and accessible without undue burden or expense; and (4) develop a proposed discovery plan that indicates the parties' views and proposals on the matters set forth in Rule 26(f)(3).

### **III. JOINT RESPONSIBILITY FOR PROPOSAL/ DEADLINE FOR SUBMISSION**

Counsel and any unrepresented party must submit a Joint Scheduling Proposal that contains the matters set forth in paragraph IV. **The Joint Scheduling Proposal is due within 30 days of the date of this order.**

### **IV. CONTENTS OF PROPOSAL**

The Joint Scheduling Proposal shall set forth the discovery plan (with corresponding dates) and any party's objections to making the initial disclosures required by Rule 26(a)(1). In addition to the proposed discovery plan and objections, if any, the parties shall address in separate paragraphs each of the following matters:

- A. A brief statement of the nature of the case, including the contentions of the parties.
- B. Any challenge to jurisdiction or venue.
- C. Whether the case is likely to generate a motion to dismiss and/or a motion for summary judgment and, if so, what impact, if any, such a motion would have on the Court's Scheduling Order.
- D. Proposed deadlines to (1) join other parties; (2) amend pleadings; (3) file motions, including dispositive motions; (4) complete discovery; and (5) designate expert witnesses and make the expert disclosures required by Rule 26(a)(2).
- E. Whether the parties will consent to the jurisdiction of the magistrate judge as explained more fully in the concurrently filed Notice of Option to Proceed Before the Magistrate Judge.
- F. Any matters that require a conference with the Court or would benefit from early Court intervention.
- G. The likelihood that other parties will be joined.
- H. (1) An estimate of the time needed for discovery with reasons and corresponding dates for completion; (2) a specification of the discovery contemplated; and (3) limitations, if any, that should be placed on discovery.

- I. Whether there are issues specifically relating to the discovery or disclosure of electronically stored information (“ESI”), including the preservation, retrieval, review, disclosure or production (including the form) of ESI, and the parties’ proposal to resolve any such issues.
- J. Whether the parties have an agreement regarding the handling of the disclosure of protected or privileged information.
- K. A statement that counsel and any unrepresented parties have read (1) *Dondi Properties Corp. v. Commerce Savings & Loan Ass’n*, 121 F.R.D. 284 (N.D. Tex. 1988); (2) this District’s Civil Justice Expense and Delay Reduction Plan, as currently amended; and (3) this District’s Local Civil Rules.
- L. The progress made toward settlement during the parties’ meeting and the present status of settlement negotiations.
- M. Whether the parties will agree to mediation, a settlement conference before a magistrate judge, or to other alternative dispute resolution and when it would be most effective (before discovery, after limited discovery, or at the close of discovery).
- N. Any other matters relevant to the status and disposition of this case.

#### **V. FAILURE TO FILE PROPOSAL**

Failure to timely submit the Joint Scheduling Proposal may result in the imposition of sanctions, including dismissal, without further notice, *see* FED R. CIV. P. 16(f), or entry of a Scheduling Order without further regard to the views of the non-complying party.


#### **VI. REQUIRED REGISTRATION FOR ELECTRONIC TRANSMISSION NOTICE**

Within 30 days of the date of this order, an attorney designated to receive copies of orders and judgments pursuant to N.D. Tex. Local Rule 77.1, as well as any *pro se* party not currently incarcerated, must register to electronically file documents and consent to electronic notice (via e-mail) of pleadings, orders, and judgments. Upon registration, the attorney or *pro se* litigant may also register additional e-mail addresses to which notices will be sent (such as an associate, secretary, or legal assistant). This registration requirement does not apply to *pro se* prisoner litigants, although those who have access to the internet and a reliable e-mail address may register voluntarily. Information about electronic noticing can be obtained from the Court’s website at <http://www.txnd.uscourts.gov/ecf-registration>.

**VII. QUESTIONS REGARDING ORDER OR SCHEDULING MATTERS**

All questions regarding this Order or any scheduling matters should be directed to Mervin Wright, Courtroom Deputy, at 214-753-2169.

**SO ORDERED** on August 26, 2020.



RENEE HARRIS TOLIVER  
UNITED STATES MAGISTRATE JUDGE